

ADMINISTRATIVE RULES OVERVIEW

What are Administrative Rules

- Administrative rules are officially promulgated agency regulations that have the force and effect of law.
- Implements or interprets Federal or State law or policy.
- Describes the agency organization, procedure or practice requirements.

Purpose of Administrative Rules

- Provides a written process to define and describe how legislation will be implemented and enforced.
- An opportunity for the public to offer comments and criticisms on the proposed rulemaking.
- Allows the Legislature and the Governor to exercise oversight over the rulemaking process
- Provides a publication process to distribute final rules and provide for the codification of the rules.

Publication Process

- Rules are published by the Legislative Services Agency (LSA).
- **Iowa Administrative Code:** The published collection of the administrative rules of all state agencies. It is arranged alphabetically by agency. Each agency has its own space and arranges its own rules within that space using a number assigned by the Administrative Code editor.
- **Iowa Administrative Bulletin:** A biweekly pamphlet announcing rules proposed or adopted by state agencies.
- The official publication process begins when the rulemaking document is submitted by the agency to the Administrative Rules Coordinator (ARC). The ARC assigns a number to each document for tracking and indexing that particular rule. The Administrative Code Editor edits and formats the document for publication in the Iowa Administrative Bulletin.

Notice and Public Participation

- Agencies are required to publish their rules in the Iowa Administrative Bulletin (IAB).
- This is the first notice to the public the agency has new or revised rules on a specific topic.
- Notice must be published in the IAB 35 days before the rule can be adopted in final form.
- The notice must contain either the terms or the substance of the proposal or set out a description of the matters involved.
- There must be enough information for the average person to understand the nature and scope of the proposal.
- A notice of intended action can address entire rules or chapters of rules or it change individual items within a particular rule. A rule can add new rules, amend existing rules or delete existing rules.
- A notice is not restricted to one particular rule or issue, a single rulemaking can cover a large number of related changes.

Preamble

- Each rulemaking will contain a preamble which is a summary of the subject and a brief explanation of the reasons for the action.
- The preamble will also list the specific statutory authority for the proposed rule changes.
- The preamble provides information regarding the availability of a public hearing(s), if there is any and the timeframes and method to submit written comments.

Public Participation

- The public must be allowed a minimum of 20 days to submit written comments on the agency's proposed rules.
- The method and deadlines for these submissions are set out in the initial notice of the agency's proposal.
- The notice must also identify the process to request an opportunity for oral presentation.

Agency Consideration of Comments

- Agencies are required to fully consider all written and oral submissions.
- Agency decision makers must be fully and adequately informed as to the content of the public comments.
- Staff prepare a synopsis of the public comments identifying the comment, the proposed rule and a recommendation if the rule should be changed based on the comment.
- An agency is required to show a “rational basis” for that decision and that the proposed change is within its delegated authority.
- The Department uses a comment/summary decision format to explain each of the comments we receive on a proposed rule and explain why we did or did not make the suggested change. Once the rules are adopted the comments are posted to the Department’s website as part of the public notice process.

Adoption of Final Rules

- A Notice of Intended Action (proposed rulemaking) can be adopted no sooner than 35 days after publication of the notice.
- An agency has 180 days to either adopt the proposed rulemaking in final form or terminate the rulemaking.
- The final set of rules to be adopted by the agency must be published in the IAB and clearly identify any changes made since the noticed rules were published. Any changes made must be within the original scope of the notice rule.
- The adopted rule indicates if there were any written comments received, and if so, what changes were made as a result of those comments. The Department also identifies when changes were not able to be made as a result of the comments and why those changes could not be made.
- The adopted rules also states if there was a public hearing(s) and how many people attended.
- The adopted rules identify the date of Board or Commission review of the rules.
- The effective date of the rules is listed.

Oversight Process

- Who has oversight of the rules process?
 - Council, Board or Commission
 - May assist with drafting rules
 - Approve rules before they are noticed
 - May review comments received on noticed rules
 - Approve rules before they are filed as adopted
 - Administrative Rules Coordinator
 - Attorney General
 - Administrative Rules Review Committee (ARRC)
 - Can direct the agency to do more consensus building on proposed rules
 - Can approve emergency rule filings
 - Delay the effective date of a rule by either 70 days or until the end of the legislative session
 - Refer the rule to the General Assembly
 - General Assembly